

Stormwater Ordinance

PROJECT DESCRIPTION LRP2012-00009

Updated: May 14, 2013

The following is provided as an overview of the attached ordinance package to help your understanding of the proposed revisions.

Under the Clean Water Act, the County is considered a municipal discharger of stormwater. As a result, the County is required to seek coverage under a permit issued by the State Water Resources Control Board. Conditions of that permit require that the County occasionally make changes to our ordinance in order to implement state-imposed water quality control standards. The changes proposed, as shown in the attached ordinance, will specifically deal with stormwater discharges from construction sites, as well as long-term / post-construction annual stormwater discharges once a site has been developed.

This ordinance is intended to accomplish the following:

- (1) Require new development projects in urbanized portions of the unincorporated County to follow the Central Coast Regional Water Quality Control Board's (RWQCB's) Post Construction Requirements.
- (2) Amend the grading ordinance to make changes approved locally in 2010, but not accepted by the Coastal Commission, including those modifications on which both the Coastal Commission and County are in agreement.

These objectives are more fully explained in the "Objectives" section below.

The new requirements being imposed as part of the revised Stormwater Ordinance are as follows:

- **Submittal of a Stormwater Control Plan.** Most new development projects will be required to submit a Stormwater Control Plan demonstrating compliance with the Post Construction Requirements. Revision to proposed site plans, grading plans, and drainage plans may be needed to accomplish this.
- **Long term maintenance and reporting.** Projects with structural stormwater control devices will be required to record an agreement specifying long term maintenance of the structure, including annual reporting to the County.

- **Updated grading permit standards in the Coastal Zone.** Grading permit standards in the Coastal Zone will be based upon the existing inland ordinance, including recommended changes by the Coastal Commission that are agreeable to the County.

OBJECTIVES

- (1) To require new development projects in urbanized portions of the unincorporated County to follow the Central Coast Regional Water Quality Control Board's (RWQCB's) Post Construction Requirements. (*SECTIONS 1, 2, 3, 6, 7*)

Post Construction Requirements are standards concerning site design as it relates to stormwater drainage. The natural hydrology of a site (i.e. the way water drains) changes when land gets developed with impervious surfaces and structures. The natural state of a site – with vegetation and pervious soils – allows water to percolate and produces comparatively little runoff. Other hydrologic features also change when sites are developed – velocity, direction, and peak flow, for example. Post Construction Requirements seek to minimize hydrologic impacts caused by urban development.

Post Construction Requirements favor Low Impact Development (LID) over conventional drainage practices. Rather than gathering all drainage, concentrating, and releasing it off site, LID seeks to re-create natural hydrologic processes. Ideally, the end goal would be to have post-development drainage conditions match pre-development drainage conditions. To achieve this, the Central Coast Regional Water Quality Control Board has set four performance standards:

- (a) Site Design and Runoff Reduction. Requirements to use certain site design practices to reduce the volume of runoff.
- (b) Water Quality. Requirements that stormwater runoff be treated using “Low Impact Development” methods – such as open vegetated drainage swales.
- (c) Runoff Retention. A requirement to retain and infiltrate a specified volume of stormwater. The volume to be retained depends upon several factors, including site location and soil conditions.
- (d) Peak Management. A requirement to make the post-development peak flow match the pre-development peak flow. Peak flow is the highest rate of stormwater flow during a storm event or a series of storm events.

The above requirements are triggered based on the amount of impervious surfacing¹.

Impervious Surface Area	Site Design and Runoff Reduction	Water Quality	Runoff Retention	Peak Management
≥ 2,500 sq ft	●			
≥ 5,000 sq ft (except SFR ²)	●	●		
≥ 15,000 sq ft	●	●	●	
≥ 22,500 sq ft	●	●	●	●

The Post Construction Requirements are expected to be set by the Central Coast Regional Water Quality Control Board (RWQCB) at a public hearing in Watsonville on July 11, 2013. More detailed information about the Post Construction Requirements, including technical support documents, can be found at the following webpage:

http://www.waterboards.ca.gov/rwqcb3/water_issues/programs/stormwater/docs/lid/lid_hydromod_charette_index.shtml

- (2) To amend the grading ordinance to make changes approved locally in 2010, but not accepted by the Coastal Commission, including those modifications on which both the Coastal Commission and County are in agreement. (SECTIONS 4, 5, 6, 7)

In 2010, the Board of Supervisors adopted comprehensive amendments to the grading ordinance in both the Coastal Zone and inland portions of the County. The ordinance has been in effect in the inland areas since May 2010. The Coastal Zone portion of the ordinance, however, requires approval by the California Coastal Commission. In August 2012, the Coastal Commission approved the ordinance with substantial modifications. The Board of Supervisors found some of these modifications to be unacceptable, and chose not to certify the Coastal Commission's amended grading ordinance. The effort now is to focus on the changes where the County and Coastal Commission have reached mutual agreement. No changes concerning agricultural grading procedures in the Coastal Zone are proposed at this time. This was the portion of the ordinance where the most substantial Coastal Commission modifications occurred; the County and

¹ Impervious surfacing is generally considered the footprint of any building, plus impervious surfaces such as patios and driveways.

² SFR = Single Family Residence

Coastal Commission have not resolved the issues concerning agricultural grading at this time.

COMMON QUESTIONS

What does this all mean?

The new standards mean that the way new development is designed will need to change. Often, structures are designed without considering site features. This new procedure will require that site hydrology be taken into consideration in site design *at the earliest possible time* rather than as an afterthought or late in the process.

Why is the County undertaking this ordinance change?

This ordinance is mandated by the State. Under the conditions of the County's permit through the State Water Resources Control Board, we are required to adopt and implement a stormwater ordinance that addresses construction phase and post-construction stormwater discharges.

What potential added costs will be associated with the ordinance?

It is difficult to estimate what additional costs will be added to development, because the requirements largely are dependent upon site design and site-specific hydrologic conditions. We have heard concerns from the development community that some added costs could result:

- Land costs. Stormwater control measures may require land surface area. This could mean less area on a site to be developed with structures, parking, or other uses.
- Engineering costs. Applicants may need to hire an engineer earlier on in the development process to address site hydrology and drainage issues.
- Maintenance costs. There may be long-term maintenance costs associated with stormwater treatment devices. For structural devices, an engineer or other qualified professional may be needed to certify the condition of stormwater devices on an annual basis.

Is there a way to minimize the impact of these requirements?

By paying attention to site design and the amount of impervious surfaces, you can reduce which performance requirements are triggered. Techniques such as pervious pavers and green roofs can be used to reduce the impervious surface area.

What happens if my site has clay soils and cannot possibly achieve the performance standards for retention and infiltration?

If you can establish that the runoff retention requirement is *technically infeasible* there is a provision to allow dedication of 10 percent of the site area to stormwater devices in lieu of achieving the performance standard.

Can the stormwater measures be located off of the site?

Only in limited circumstances. All of the off-site mitigation options require that the County develop a plan and submit it to the Regional Water Quality Control Board for approval. There is still a great deal of uncertainty as to how the off-site mitigation programs will work.

Are these requirements only in place in the unincorporated County?

All urbanized areas in the Central Coast, generally with a population of 3,000 or greater, are subject to the Post Construction Requirements. Each city and county is required to adopt an ordinance to implement the requirements. Most rural areas (e.g. outside of municipal water service boundaries) will not be subject to these requirements. The Post Construction Requirements are unique to the Central Coast Region, which extends from Santa Cruz to Santa Barbara County.

Who came up with these requirements?

The Regional Water Quality Control Board originally adopted the Post Construction Requirements in September 2012. They are expected to adopt a modified version of the Post Construction Requirements at a public hearing in Watsonville on July 11, 2013. There is a webpage that provides information as to why these requirements are being pursued by the Regional Board:

http://www.waterboards.ca.gov/rwqcb3/water_issues/programs/stormwater/docs/lid/lid_hydr_omod_charette_index.shtml

ORDINANCE COMPONENTS

SECTION 1 Pages 1-7	Replaces the existing stormwater ordinance in the inland area. Repeal and replace Section 22.10.155 of the Land Use Ordinance.	<i>This section contains the bulk of the new post-construction stormwater requirements.</i>
SECTION 2 Page 8	Adds the stormwater ordinance to the County Building Ordinance. <ul style="list-style-type: none">• Add new Chapter 19.09 to the Building and Construction Ordinance• Chapter 19.09 will sunset upon completion of the Local Coastal Program Amendment	<i>This section is based on Section 1 with a few modifications.</i>

SECTION 3 Pages 8-9	Adds the stormwater ordinance to the Local Coastal Program. <ul style="list-style-type: none"> Adds new Section 23.04.450 to the Coastal Zone Land Use Ordinance. This section requires Coastal Commission approval before taking effect. 	<i>This section is based on Section 1 with a few modifications.</i>
SECTION 4 Pages 9-77	Repeals and replaces the Coastal Zone Grading Ordinance. <ul style="list-style-type: none"> Replace Sections 23.05.020 through 23.05.059 with new Sections 23.05.020 through 23.05.059. This section requires Coastal Commission approval before taking effect. 	<i>This section is based on the Coastal Zone Grading Ordinance adopted by the Board of Supervisors in April 2010.</i>
SECTION 5 Pages 77-89	Removes conflicting language from the County Building Ordinance. Modify Section 19.03.010.e to defer to the grading ordinances in Titles 22 and 23 where conflicts exist.	<i>This section removes conflicting language from Title 19.</i>
SECTION 6 Page 89-90	Definitions in the Land Use Ordinance Add definitions to Section 22.80.030.	<i>This section adds new definitions.</i>
SECTION 7 Pages 90-91	Definitions in the Coastal Zone Land Use Ordinance Add definitions to Section 23.11.030.	<i>This section adds new definitions.</i>

Please note that while the attached ordinance document is lengthy, the bulk of the policy issues concerning the new post-construction requirements are addressed in Section 1, on pages 1-7.

ENVIRONMENTAL DETERMINATION

The County's ordinance implementing Regional Board Requirements is exempt from the California Environmental Quality Act (CEQA). This project falls under a Class 8 Categorical Exemption (Section 15308 of the CEQA Guidelines). Class 8 Categorical Exemptions are available for actions taken by regulatory agencies to establish procedures for the protection of the environment.

The Regional Water Quality Control Board found the Post Construction Requirements to be exempt from CEQA under a provision in the Porter Cologne Water Quality Control Act.

TIMING

The County is **required** to put this ordinance into effect **by September 6, 2013**. Failure to meet this deadline could put the County out of compliance with its permit. The County would be at risk of fines or other sanctions by the Regional Water Quality Control Board if it is not in compliance with its permit. In order to meet the stringent deadlines, we anticipate the following tentative schedule:

Planning Commission hearings – beginning June 2013

RWQCB Adoption of Post Construction Requirements – expected on July 11, 2013

Board of Supervisors hearings – expected in August 2013

Several jurisdictions, including the County, have requested a six-month extension to allow further time for ordinance development. The Regional Water Quality Control Board could consider this request for extension at the July 11, 2013 hearing scheduled in Watsonville. Until this time, however, we have been directed to assume that the existing deadlines will remain in place.

Because of the strict implementation schedule we are facing, ***it is imperative that anyone wishing to submit comments do so right away.*** Please contact Michael Conger at (805) 781-5136 or mconger@co.slo.ca.us in order to submit your comments or to inquire about the proposed ordinance.